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**BILLING CODE: 6750 - 01-S**  
**FEDERAL TRADE COMMISSION**  
**Agency Information Collection Activities;**  
**Proposed Collection; Comment Request**

**AGENCY:** Federal Trade Commission (“Commission” or “FTC”).

**ACTION:** Notice.

**SUMMARY:** The FTC plans to conduct a study to examine consumer perception of environmental marketing claims. This is the second of two notices required under the Paperwork Reduction Act (“PRA”) in which the FTC seeks public comments on its proposed consumer research in connection with requesting Office of Management and Budget (“OMB”) review of, and clearance for, the collection of information discussed herein.

**DATES:** Comments must be received on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** Interested parties may file a comment online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write “Green Marketing Consumer Perception Study, Project No. P954501” on your comment, and file your comment online at <https://ftcpublic.commentworks.com/ftc/organicstudypra2>, by following the instructions on the web-based form. If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue, NW, Suite CC-5610 (Annex J), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street, SW, 5th Floor, Suite 5610 (Annex J), Washington, DC 20024.

**FOR FURTHER INFORMATION CONTACT:** Hampton Newsome, Attorney,

202-326-2889, or Laura Koss, Attorney, 202-326-2890, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission.

## **SUPPLEMENTARY INFORMATION:**

### **I. Background**

The Commission’s Guides for the Use of Environmental Marketing Claims (“Green Guides” or “Guides”) (16 CFR part 260) help marketers avoid making unfair and deceptive environmental claims.<sup>1</sup> The Guides outline general principles that apply to all environmental marketing claims and provide guidance regarding specific categories of such claims.<sup>2</sup> These categories include: general environmental benefit claims such as “environmentally friendly”; degradable claims; compostable claims; recyclable claims; recycled content claims; source reduction claims; refillable claims; and “free-of” claims. The Green Guides explain how reasonable consumers are likely to interpret claims within these categories. The Guides also describe the basic elements necessary to substantiate claims and present options for qualifying them to avoid deception.<sup>3</sup> The illustrative qualifications provide “safe harbors” for marketers

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<sup>1</sup> The Commission issued the Green Guides in 1992 (57 FR 36363) and subsequently revised them in 1996 (61 FR 53311), 1998 (63 FR 24240), and 2012 (77 FR 62121).

<sup>2</sup> 15 U.S.C. 45(a). The Commission’s industry guides, such as the Green Guides, are administrative interpretations of the application of Section 5 of the FTC Act, 15 U.S.C. 45(a), to advertising claims. The Commission issues industry guides to provide guidance for the public to conform with legal requirements. These guides provide the basis for voluntary abandonment of unlawful practices by industry members. 16 CFR part 17. The Guides do not have the force and effect of law and are not independently enforceable. However, the Commission can take action under the FTC Act if a business makes environmental marketing claims inconsistent with the Guides. In any such enforcement action, the Commission must prove that the act or practice at issue is unfair or deceptive.

<sup>3</sup> The Guides do not, however, establish standards for environmental performance or prescribe testing protocols.

who want certainty, but do not represent the only permissible approaches. Currently, the Guides do not provide specific guidance regarding “organic” claims.

## **II. The FTC’s Proposed Study**

### **A. Study Description**

The FTC plans to conduct Internet-based research to explore consumer perceptions of certain environmental marketing claims, such as “organic” and “recycled content,” to help the Commission better advise marketers on how to comply with the law. The proposed study will compare participant responses regarding the meaning of such claims across different products. Specifically, using a treatment-effect methodology, the study will examine whether respondents viewing organic and recycled content claims believe that these products have particular environmental benefits or attributes depending on the context in which they are presented. For “recycled content” claims, the study will present questions about products produced with materials sourced under different scenarios and compare participant responses to those scenarios. Those sources include products recycled by consumers, and those from manufacturing other products and reprocessed to varying degrees.

The study will also examine how respondents understand the term “organic” for claims involving products not covered by the National Organic Program (NOP) (*e.g.*, mattresses and dry cleaning).<sup>4</sup> The FTC staff will use the study results, along with other information such as public comments, in considering whether to recommend that the Commission propose revisions to the Green Guides.

Having considered the costs and benefits of various data collection methods, the FTC has

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<sup>4</sup> The NOP is administered by the U.S. Department of Agriculture (USDA).

concluded that an Internet panel with nationwide coverage will provide the most efficient way to meet the research objectives. We will draw participants from an Internet panel maintained by a commercial firm. All participation will be voluntary. While the results will not be generalizable to the U.S. population, they will provide useful insights into consumer understanding of the claims being considered, particularly when comparing the responses to various scenarios to determine how consumers may view those scenarios differently. The FTC has contracted with IPSOS, a consumer research firm with substantial experience assessing consumer communications via the Internet and other alternative protocols, to administer the Internet study.

## **B. PRA Burden Analysis**

Staff is revising certain prior assumptions<sup>5</sup> based on a more precise target population for completing the questionnaire and further consultation with its contractor regarding the anticipated response rate. IPSOS anticipates that 10 percent of those invited to participate in the study will complete the questionnaire. Accordingly, IPSOS might contact as many as 80,000 persons to achieve the study's goal of surveying 8,000 respondents.

As before, staff estimates that respondents to the Internet questionnaire will require, on average, approximately 20 minutes to complete it. Staff will pretest the questionnaire with approximately 100 respondents to ensure that all questions are easily understood. The pretest will total approximately 38 hours cumulatively (100 respondents x 23 minutes each), allowing for an extra three minutes per respondent for questions.

For the full study, FTC staff now accounts in its estimates both for those who will complete the questionnaire and those who will not. Cumulatively, those completing it will require

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<sup>5</sup> See 79 FR 16330 (Mar. 25, 2014).

approximately 2,667 hours (8,000 persons x 20 minutes each). Staff projects that those who will prematurely end the process will do so in under one minute; thus taking 1,200 hours, in total.

[(80,000 total contacts – 8,000 persons completing the questionnaire) x 1 minute each)].

Cumulatively, then, complete and partial surveying of 80,000 persons will total about 3,867 hours.

For the pretest, an additional 900 persons will prematurely end the process, which, cumulatively, totals an additional 15 hours.

Overall burden for the pretest and questionnaire would thus be 3,920 hours. The cost per respondent should be negligible. Participation is voluntary, and will not require any labor expenditures by respondents. There are no capital, start-up, operation, maintenance, or other similar costs to the respondents.

### **III. Paperwork Reduction Act**

Under the PRA, 44 U.S.C. 3501-3521, federal agencies must obtain approval from OMB for each collection of information they conduct or sponsor. “Collection of information” means agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party.<sup>6</sup> As required by section 3506(c)(2) of the PRA, the FTC published a notice seeking public comment on the proposed collections of information. *See* 79 FR 16330 (Mar. 25, 2014). In response, the Commission received three comments.<sup>7</sup> Section IV below sets forth FTC staff’s analysis of these comments.

Pursuant to the OMB regulations, 5 CFR Part 1320, that implement the PRA, the

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<sup>6</sup> 44 U.S.C. 3502(3); 5 CFR 1320.3(c).

<sup>7</sup> The Commission received comments from the Organic Trade Association (#562-00008); Iberdrola Renewables (#562-00007); and the Natural Marketing Institute (NMI) (#562-00005), available at <http://www.ftc.gov/policy/public-comments/initiative-562>.

Commission is providing this second opportunity for public comment. All comments should be filed as prescribed in the Request for Comment part of the SUPPLEMENTARY INFORMATION section below, and must be received on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

#### **IV. Analysis of Comments Received**

As noted above, the Commission received three comments regarding the proposed collections of information. Each comment is discussed below:

*Organic Trade Association:* The Organic Trade Association (OTA) provided five recommendations for the study. First, it urged the FTC to refrain from conducting research on products already covered by the USDA's NOP. Second, it suggested that the FTC explore "consumer trust in organic labeling" related to products outside of the NOP's coverage. Third, it recommended that the FTC draft an enforcement policy related to such products. Fourth, it asked the FTC to monitor and take enforcement action against misleading "organic" claims for products not subject to USDA authority. Finally, OTA suggested that the FTC consider OTA's own research projects related to organic issues, the *U.S. Families' Organic Attitudes and Beliefs Study* and OTA's *Organic Industry Survey*, updated versions of which will be available soon.

Consistent with OTA's recommendations, the FTC staff plans to focus only on organic claims involving products not clearly subject to current USDA requirements, such as dry cleaning or mattresses. In implementing this approach, the study will include several questions asking how respondents believe "organic" claims to be regulated, thus exploring their understanding of such claims. In addition, as explained earlier in this Notice, the FTC staff will use the results of the research, as well as other available studies, to determine whether to recommend development of further guidance related to such claims. The results will also help the FTC staff in considering

appropriate enforcement against misleading claims for products not subject to NOP authority.

*National Marketing Institute:* NMI encouraged the FTC to consider NMI's research services for the study. NMI explained that it has conducted consumer surveys for several years on a variety of environmental claims including consumer packaging and recycling habits, as well as consumer attitudes, trust, and purchasing behaviors related to organic products. NMI contended that it could provide information about cost, timing, and specific participation procedures. It noted that data results are typically available five weeks after collection.

As explained in this Notice, the FTC has already contracted through the normal competitively bid process with a firm experienced in such consumer studies to field this research project. This contracting process is complete.

*Iberdrola Renewables:* Iberdrola Renewables expressed general support for the overall objective of the Green Guides – to ensure the “honesty, accuracy, and integrity of environmental marketing claims.”

## **V. Request for Comment**

Pursuant to Section 3506(c)(2)(A) of the PRA, the FTC invites comments on: (1) whether the reporting requirements are necessary, including whether the information will be practically useful; (2) the accuracy of our burden estimates, including whether the methodology and assumptions used are valid; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information.

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before [insert date 30 days from FEDERAL REGISTER date of publication]. Write “Green Marketing Consumer Perception Study, Project No. P954501” on your comment. Your comment – including your name and your state – will be placed on the

public record of this proceeding, including, to the extent practicable, on the public Commission Website, at <http://www.ftc.gov/os/publiccomments.shtm>. As a matter of discretion, the Commission tries to remove individuals' home contact information from comments before placing them on the Commission Website.

Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, like anyone's Social Security number, date of birth, driver's license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, like medical records or other individually identifiable health information. In addition, do not include any "[t]rade secret or any commercial or financial information which is obtained from any person and which is privileged or confidential," as provided in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you have to follow the procedure explained in FTC Rule 4.9(c), 16 CFR 4.9(c).<sup>8</sup> Your comment will be kept confidential only if the FTC General Counsel grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that

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<sup>8</sup> In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. See FTC Rule 4.9(c), 16 CFR 4.9(c).



the Commission considers your online comment, you must file it at

<https://ftcpublic.commentworks.com/ftc/organicstudypra2>, by following the instructions on the web-based form. If this Notice appears at <http://www.regulations.gov/#!home>, you also may file a comment through that website.

If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue, NW, Suite CC-5610 (Annex J), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street, SW, 5th Floor, Suite 5610 (Annex J), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Comments on the information collection requirements subject to review under the PRA should additionally be submitted to OMB. If sent by U.S. mail, they should be addressed to Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Federal Trade Commission, New Executive Office Building, Docket Library, Room 10102, 725 17th Street, NW, Washington, DC 20503. Comments sent to OMB by U.S. postal mail, however, are subject to delays due to heightened security precautions. Thus, comments instead should be sent by facsimile to (202) 395-5806.

Visit the Commission Website at <http://www.ftc.gov> to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before [30 days from FEDERAL REGISTER date of publication]. You can find more information, including routine uses permitted by the Privacy Act, in the Commission's privacy policy, at

<http://www.ftc.gov/ftc/privacy.htm>.

David C. Shonka,  
Principal Deputy General Counsel.

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